

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariana Thomas	Team: Squad #16	CCRB Case #: 202106902	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/10/2021 8:15 PM, Wednesday, 11/10/2021 9:10 PM	Location of Incident: § 87(2)(b) § 87(2)(b) § 87(2)(b) 101 Precinct Stationhouse	Precinct: 101	18 Mo. SOL 5/10/2023	EO SOL 5/10/2023	
Date/Time CV Reported Fri, 11/12/2021 10:29 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 11/12/2021 10:29 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Shaun Healy	14104	950577	101 PCT
2. Officers			
3. LT Cortney Cummings	00000	928136	101 DET
4. PO Louis Camerada	28508	950143	101 PCT
5. PO Thomas Sheridan	28656	955479	101 PCT
6. An officer			
7. DI Eric Robinson	00000	934118	101 PCT
8. PO Terrence Sloan	29057	951271	101 DET
9. SGT DS Harrison Berkowitz	00661	941417	107 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Michael Sinto	04519	964778	101 PCT
2. PO Shawn Post	20009	966282	101 PCT
3. DTS Michael Conti	04041	945610	101 PCT
4. LT Ryan Oshea	00000	948016	101 PCT
5. PO Steven Lopez	00594	965286	101 PCT
6. SGT Hasuk Yang	02834	942729	101 PCT
7. PO Scott Edwards	14288	956617	101 PCT
8. PO Marcus Fuller	12462	964520	101 PCT
9. PO Kathleen Meyer	14420	964166	101 PCT
10. LT Justin Larkinblennau	00000	945902	101 PCT
11. PO Sudan Osorio	20998	968049	101 PCT
12. DT3 Brendan Hannon	03655	956718	101 DET
13. PO Philip Jendzo	25651	966640	101 PCT
14. PO Derek Theiss	09851	957212	101 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
15. PO Lukasz Solis	14287	943832	101 PCT
Officer(s)	Allegation	Investigator Recommendation	
A.PO Shaun Healy	Abuse: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy refused to provide his shield number to § 87(2)(b)		
B.PO Shaun Healy	Abuse: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy refused to provide his name to § 87(2)(b)		
C.PO Shaun Healy	Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used physical force against § 87(2)(b)		
D.PO Shaun Healy	Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used physical force against § 87(2)(b)		
E.PO Shaun Healy	Discourtesy: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy spoke discourteously to § 87(2)(b)		
F.PO Shaun Healy	Discourtesy: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy spoke discourteously to § 87(2)(b)		
G.PO Shaun Healy	Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used physical force against § 87(2)(b)		
H.PO Shaun Healy	Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used physical force against § 87(2)(b)		
I.PO Shaun Healy	Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used a chokehold against § 87(2)(b)		
J.PO Shaun Healy	Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy restricted § 87(2)(b) breathing.		
K.PO Louis Camerada	Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Louis Camerada used physical force against § 87(2)(b)		
L. Officers	Abuse: At § 87(2)(b) in Queens, officers threatened § 87(2)(b) with the use of force.		
M. An officer	Force: At § 87(2)(b) in Queens, an officer used a chokehold against § 87(2)(b)		
N. An officer	Force: At § 87(2)(b) in Queens, an officer restricted § 87(2)(b) breathing.		
O.LT Cortney Cummings	Force: At § 87(2)(b) in Queens, Lieutenant Cortney Cummings used physical force against § 87(2)(b)		
P.LT Cortney Cummings	Force: At § 87(2)(b) in Queens, Lieutenant Cortney Cummings used physical force against § 87(2)(b)		
Q.LT Cortney Cummings	Discourtesy: At § 87(2)(b) in Queens, Lieutenant Cortney Cummings spoke discourteously to § 87(2)(b)		
R. Officers	Discourtesy: At § 87(2)(b) in Queens, officers spoke discourteously to § 87(2)(b)		

Officer(s)	Allegation	Investigator Recommendation
S.PO Terrence Sloan	Force: At § 87(2)(b) in Queens, Police Officer Terrence Sloan used physical force against § 87(2)(b)	
T.PO Terrence Sloan	Force: At § 87(2)(b) in Queens, Police Officer Terrence Sloan used physical force against § 87(2)(b)	
U.SGT DS Harrison Berkowitz	Force: At § 87(2)(b) in Queens, Sergeant Harrison Berkowitz used physical force against § 87(2)(b)	
V.SGT DS Harrison Berkowitz	Abuse: At § 87(2)(b) in Queens, Sergeant Harrison Berkowitz threatened § 87(2)(b) with the use of force.	
W.SGT DS Harrison Berkowitz	Discourtesy: At § 87(2)(b) in Queens, Sergeant Harrison Berkowitz spoke discourteously to § 87(2)(b)	
X.PO Terrence Sloan	Force: At § 87(2)(b) in Queens, Police Officer Terrence Sloan used physical force against § 87(2)(b)	
Y.PO Thomas Sheridan	Force: At § 87(2)(b) in Queens, Police Officer Thomas Sheridan used physical force against § 87(2)(b)	
Z.DI Eric Robinson	Discourtesy: At the 101st Precinct Stationhouse, Deputy Inspector Eric Robinson spoke discourteously to § 87(2)(b)	

### Case Summary

On November 12, 2021, § 87(2)(b) filed this complaint via the CCRB's call processing system. On November 11, 2021, Lieutenant Justin Larkinblennau, of the 101<sup>st</sup> Precinct, called IAB to report § 87(2)(b) complaint under IAB log § 87(2)(b) which was received by the CCRB on November 29, 2021.

On November 10, 2021, at approximately 8:15 p.m., § 87(2)(b) arrived at § 87(2)(b) in Queens, his girlfriend's, § 87(2)(b) mother's § 87(2)(b), home, where Police Officer Shaun Healy and Police Officer Louis Camerada, both of the 101<sup>st</sup> Precinct, responded to a 911 call of a family dispute. PO Healy allegedly refused to provide his name and shield number to § 87(2)(b) (**Allegations A-B: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) tried to leave her bedroom to go to the bathroom and PO Healy grabbed her arm and pushed and pulled her against a wall (**Allegations C-D: Force, § 87(2)(g)**). § 87(2)(b) son, § 87(2)(b), exited his bedroom, and he and § 87(2)(b) approached the officers. PO Healy told § 87(2)(b) and § 87(2)(b) "Don't fucking touch me" and told § 87(2)(b) "You're not gonna do shit" (**Allegations E-F: Discourtesy, § 87(2)(g)**). PO Healy pushed § 87(2)(b) away from him and pushed § 87(2)(b) into a wall, where he handcuffed him (**Allegations G-H: Force, § 87(2)(g)**). PO Healy allegedly pressed his forearm against § 87(2)(b) neck, which restricted § 87(2)(b) breathing (**Allegations I-J: Force, § 87(2)(g)**). PO Camerada allegedly grabbed § 87(2)(b) sweater, near his chest, pulled him forward, and escorted him out of the apartment (**Allegation K: Force, § 87(2)(g)**). In the hallway outside of § 87(2)(b) § 87(2)(b) grabbed his phone from his jacket pocket, and officers allegedly said, "Break his arms" (**Allegation L: Abuse of Authority, § 87(2)(g)**). An officer allegedly grabbed his neck in the hallway and slammed him into a wall in the elevator, which restricted § 87(2)(b) breathing for approximately 30 seconds as the officer maintained their grip around his neck (**Allegations M-N: Force, § 87(2)(g)**). Lieutenant Cortney Cummings, of the 101<sup>st</sup> Precinct Detective Squad, pushed § 87(2)(b) head into the elevator wall and then punched him twice on the left side of his face by his eyes (**Allegations O-P: Force, § 87(2)(g)**). Officers, including Lieutenant Cummings, ordered § 87(2)(b) to get his hands out of his "Fucking pockets," and to show them his, "Fucking hands" (**Allegations Q-R: Discourtesy, § 87(2)(g)**). Police Officer Terrance Sloan, of the 101<sup>st</sup> Precinct Detective Squad, grabbed § 87(2)(b) wrists, where his handcuffs were, and held his arms upwards (**Allegation S: Force, § 87(2)(g)**). PO Sloan and Sergeant Harrison Berkowitz, of the 101<sup>st</sup> Precinct Detective Squad, allegedly carried him out of the building by pulling on his handcuffs (**Allegations T-U: Force, § 87(2)(g)**). Sgt. Berkowitz told § 87(2)(b) "Move your fucking leg, or I'm going to break that too," as he entered the back of a police car (**Allegation V: Abuse of Authority, § 87(2)(g)**). **Allegation W: Discourtesy, § 87(2)(g)** PO Sloan pushed § 87(2)(b) legs inside the police car and Police Officer Thomas Sheridan, of the 101<sup>st</sup> Precinct, pulled § 87(2)(b) by his arms inside the police car (**Allegations X-Y: Force, § 87(2)(g)**). At the 101<sup>st</sup> Precinct Stationhouse, Deputy Inspector Eric Robinson allegedly told § 87(2)(b) to, "Shut the fuck up" (**Allegation Z: Discourtesy, § 87(2)(g)**).

§ 87(2)(b)

Body-worn camera ("BWC") footage (**Board Review 03-18**) was obtained from the NYPD Legal Bureau. Surveillance footage (**Board Review 19-22**) was obtained from the New York City Housing Authority ("NYCHA").

### Findings and Recommendations

**Allegation (C) Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used physical force against § 87(2)(b)**

**Allegation (D) Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used physical force against § 87(2)(b)**

**Allegation (E) Discourtesy: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy spoke discourteously to § 87(2)(b)**

**Allegation (F) Discourtesy: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy spoke discourteously to § 87(2)(b)**

**Allegation (G) Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used physical force against § 87(2)(b)**

**Allegation (H) Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used physical force against § 87(2)(b)**

**Allegation (I) Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy used a chokehold against § 87(2)(b)**

**Allegation (J) Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy restricted § 87(2)(b) breathing.**

**Allegation (K) Force: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Louis Camerada used physical force against § 87(2)(b)**

§ 87(2)(b) testified that he left work and went to § 87(2)(b) apartment (**Board Review 23**). When he arrived, PO Healy and PO Camerada, identified via the investigation, were standing in the living room. They had been called there by § 87(2)(b) to deescalate an argument she and § 87(2)(b) had over the ownership of § 87(2)(b) children's legal documents. While § 87(2)(b) was in the living room, he saw PO Healy stand in front of § 87(2)(b) bedroom door and tell her that she was not allowed to leave her room. § 87(2)(b) pulled down her pants and told PO Healy that she needed to use the bathroom. § 87(2)(b) tried to walk towards the bathroom, but PO Healy immediately grabbed her left bicep and told her she could not leave the room to go to the bathroom. PO Healy held § 87(2)(b) arm for approximately five to seven minutes. § 87(2)(b) yelled that she had to use the bathroom and asked PO Healy to stop grabbing her. While maintaining his grip on § 87(2)(b) bicep, PO Healy pushed and pulled her against the wall. After approximately six minutes of PO Healy grabbing onto § 87(2)(b) arm, § 87(2)(b) exited his room and approached them. § 87(2)(b) also approached and once he was approximately eight to ten steps away from PO Healy, § 87(2)(b) asked if § 87(2)(b) had the right to use the bathroom in her own home. PO Healy said yes. § 87(2)(b) again asked if she could go to the bathroom and PO Healy said no and continued to refuse to let her go to the bathroom. § 87(2)(b) who was calm and not aggressive, moved two to three steps away from PO Healy. § 87(2)(b) did not make any physical contact with PO Healy but asked him, "Wouldn't you want to punch somebody in the face, if they were being as aggressive to him as he was being to § 87(2)(b) PO Healy said yes. § 87(2)(b) said, "So wouldn't you think somebody is going to punch you in the face?" PO Healy immediately asked § 87(2)(b) what he said and with his right forearm, he pressed against § 87(2)(b) neck, which restricted § 87(2)(b) breathing for a couple seconds. PO Healy slammed § 87(2)(b) against the wall and told him that he would arrest him for interfering with his investigation. § 87(2)(b) was not sure how long PO Healy kept his forearm against his neck but thought that it was between a few seconds and two minutes.) At this point, PO Camerada approached. § 87(2)(b) asked PO Healy what he was investigating, said he would not resist, and that he could place him in handcuffs if he told him what he was being arrested for. PO Healy said § 87(2)(b) was being arrested for assaulting an officer. § 87(2)(b) turned around and allowed PO Healy to rear handcuff him; he did not resist. After he was handcuffed, PO Camerada grabbed § 87(2)(b) sweater, near his chest. § 87(2)(b) was not sure if PO Camerada grabbed him or hit him but remembered PO Camerada's hand going across his sweater and being pulled forward, and PO Camerada ordering him to leave the apartment. PO Camerada escorted § 87(2)(b) out of the apartment, and § 87(2)(b) was compliant. PO Healy remained inside the apartment,

where he arrested § 87(2)(b) § 87(2)(b) did not see this, but he heard § 87(2)(b) yelling and asking why § 87(2)(b) was being arrested.

In a phone statement, obtained by the CCRB on November 18, 2021, § 87(2)(b) said he told PO Healy, "I'm gonna punch you in the face," after PO Healy slammed § 87(2)(b) against the wall, but never followed up these words with an action (**Board Review 24**). In his CCRB interview on December 10, 2021, § 87(2)(b) said that he did not threaten PO Healy. In his complaint with IAB, § 87(2)(b) alleged that officers used excessive force against him, but did not specify how so nor which officers did so (**Board Review 25**). Furthermore, the IAB log did not mention whether § 87(2)(b) threatened officers.

The 911 call audio (**Board Review 26**) revealed that § 87(2)(b) called 911 and requested police assistance to § 87(2)(b) § 87(2)(b) in Queens. She reported that her mother, § 87(2)(b) and her stepfather, § 87(2)(b) were intoxicated, while children under the age of three, including § 87(2)(b) daughter, were home. She said there were no weapons or injuries, but that the situation could escalate. Event documents (**Board Review 27**) and police radio communications (**Board Review 28, 29**) revealed that this information, and that the apartment was a "sensitive location," was provided to responding officers via radio transmission. Police documents further revealed that approximately 13 minutes after their arrival, PO Healy and PO Camerada requested additional units via radio transmission.

In PO Healy's BWC footage (**Board Review 04**), at the 00:30 minute-mark, PO Healy and PO Camerada approach § 87(2)(b) knock on the door, and § 87(2)(b) invites the officers inside, where she tells them that she and § 87(2)(b) had an argument regarding § 87(2)(b) children's legal documents, which § 87(2)(b) refuses to give her. From 02:08 to 05:07, PO Healy speaks to § 87(2)(b) at her bedroom door, at the end of a hallway, and asks her where the documents are. She says she does not know and will call ACS, as she has custody over § 87(2)(b) daughter. § 87(2)(b) is yelling throughout the incident and PO Healy repeatedly orders her to calm down and to show him the documents. She refuses and tells the officers to leave. At 05:08, PO Healy begins to fill out a Domestic Incident Report ("DIR"), as he leans on § 87(2)(b) door. From 06:00 to 07:33, § 87(2)(b) tries to close her door, asks PO Healy to move, and tries to walk past PO Healy, saying she has to go to the bathroom. PO Healy says he will move when he is done, that he does not want her to fight with § 87(2)(b) and asks that she give the officers a minute. At 07:34, § 87(2)(b) walks into PO Healy. PO Healy puts the back of his hand on § 87(2)(b) left shoulder, and she immediately steps back and screams, "Do not put your fucking hands on me." At 07:50, § 87(2)(b) and § 87(2)(b) who are not captured, both say that § 87(2)(b) has the right to use the bathroom. PO Healy says yes, but that she is "highly intoxicated." At 07:54, § 87(2)(b) screams, "Move," repeatedly, as she stomps her feet, and says, "Alright so I'm going to fucking pee right here," as she pulls her pants down briefly. At 08:32, § 87(2)(b) yells for PO Healy to move. PO Healy says that he will. § 87(2)(b) tries to walk past PO Healy, and he says, "No, no, when I move." At 08:40, § 87(2)(b) tells PO Healy not to put his hands on her and screams that she needs to pee, as she enters the hallway. At 08:49, with his right hand, PO Healy grabs § 87(2)(b) upper left arm. She pulls her arm up and out of PO Healy's grip. With his right hand, PO Healy grabs § 87(2)(b) right forearm. In the background, § 87(2)(b) says, "If we get close to you, you guys feel some type of way." At 08:53, § 87(2)(b) stands in front of PO Camerada, as they both place their hands against each other's torsos. PO Camerada moves his hands and § 87(2)(b) grabs PO Camerada's right wrist with his left hand. At 08:58, § 87(2)(b) steps directly in front of PO Camerada and says, "Do not touch my son." § 87(2)(b) places his right arm in between § 87(2)(b) and PO Camerada's chests and pulls her towards the bathroom, as PO Healy maintains his grip on her forearm and pulls her arm back towards him. § 87(2)(b) yells, "Stop grabbing her." At 09:03, with his right hand, § 87(2)(b) grabs PO Healy's right hand and repeatedly tells him to

stop grabbing her. PO Healy repeatedly orders the civilians to relax. § 87(2)(b) repeatedly yells for PO Healy to stop grabbing § 87(2)(b). PO Healy tells § 87(2)(b) to let go. At 09:23, § 87(2)(b) repeatedly screams, "My arm." At 09:34, PO Healy says, "Don't fucking touch me." § 87(2)(b) says he is not. With his right hand under § 87(2)(b) left armpit, PO Healy pushes § 87(2)(b) back. At 09:35, PO Healy says, "You're gonna do what?" § 87(2)(b) (off camera) says, "I'm gonna hit you. Get off of her." At 09:39, PO Healy's BWC falls on the ground and faces upwards. With his left forearm, PO Healy briefly makes contact with § 87(2)(b) chest, as he pushes § 87(2)(b) against a wall. PO Healy turns § 87(2)(b) around and handcuffs him. At 10:14, PO Healy picks up his BWC. At 10:47, PO Healy reaches for § 87(2)(b) forearm, as § 87(2)(b) screams "No." The officers handcuff § 87(2)(b) and escort him to the hallway.

PO Camerada's BWC footage (**Board Review 03**), from 10:20 to 11:20, captures § 87(2)(b) just after he is placed in handcuffs, and does not capture PO Camerada nor another officer grabbing § 87(2)(b) sweater and pulling him forward.

§ 87(2)(b) statement was somewhat consistent with the BWC footage (**Board Review 30**). He testified that every time § 87(2)(b) attempted to exit her bedroom, PO Healy pushed her back into the room, grabbing her upper arm for approximately two minutes. § 87(2)(b) tried to force her way out of her room by pushing her whole body towards PO Healy. § 87(2)(b) and § 87(2)(b) tried to get PO Healy's hands off § 87(2)(b) by grabbing PO Healy's hands from where they contacted § 87(2)(b) arm. With his hand, PO Healy grabbed § 87(2)(b) by his shirt and pulled him close to his body, then pushed § 87(2)(b) body against the wall, and then pressed his knee against § 87(2)(b) lower body to keep him against the wall for a few seconds.

§ 87(2)(b) and § 87(2)(b) were uncooperative during the investigation.

PO Healy's statement was generally consistent with the BWC footage (**Board Review 31**). He testified that as he spoke to § 87(2)(b) she appeared intoxicated, as she had slurred speech, an unsteady gate, and glassy eyes and he observed alcohol containers in her bedroom. Given that § 87(2)(b) and § 87(2)(b) were yelling at each other, there was a safety concern that § 87(2)(b) could go after § 87(2)(b) could turn her attention to the officers, or could hurt herself because she was highly intoxicated. PO Healy stood in front of § 87(2)(b) doorway to keep both parties separate. Due to her level of intoxication, § 87(2)(b) was very unpredictable, and PO Healy feared that she could have gotten something in the bathroom, where razor blades are typically kept, and went after § 87(2)(b). § 87(2)(b) kept trying to push past PO Healy, so he grabbed her arm and pulled her towards him to prevent her from going into the bathroom or possibly down the hallway to § 87(2)(b). § 87(2)(b) pulled § 87(2)(b) towards the bathroom and away from PO Healy, while § 87(2)(b) pulled PO Healy's fingers and hand off § 87(2)(b) arm. As § 87(2)(b) pulled PO Healy's hands, he said, "Let go of her or I'm going to hit you." PO Healy did not recall if he ever said, "You're not going to do shit." PO Healy said, "Don't fucking touch me," to the civilians because § 87(2)(b) was pulling PO Healy's fingers to the point that he almost bent them the other way. At that point, it was a heightened situation and PO Healy's adrenaline kicked in and he wanted to inform § 87(2)(b) that he could not put his hands on any officers. PO Healy escorted § 87(2)(b) to the wall with his palms in front of his body and a stiff extended arm. It was possible that he placed his forearm against § 87(2)(b) chest, though he did not specifically recall. He denied shoving § 87(2)(b) into the wall. § 87(2)(b) never appeared to have trouble breathing and PO Healy denied taking any physical action that would have resulted in § 87(2)(b) having trouble breathing or making any physical contact with his neck. PO Healy denied grabbing § 87(2)(b) by his shirt and pushing his body against the wall or pressing his knee against § 87(2)(b) legs. PO Healy denied ever seeing PO Camerada grab § 87(2)(b) by his chest by pulling on his shirt or seeing him hit § 87(2)(b) across the chest. PO Camerada assisted in handcuffing § 87(2)(b) which was the first PO Healy saw of PO



Camerada. He did not know if PO Camerada had been involved prior to this, as he could not see him from where he was positioned. Other officers began to arrive as § 87(2)(b) was handcuffed and escorted him out of the apartment. PO Healy then handcuffed § 87(2)(b).

PO Camerada's statement was generally consistent with the BWC footage and PO Healy's testimony (**Board Review 32**). He testified that § 87(2)(b) appeared intoxicated and became progressively louder and more belligerent. § 87(2)(b) opened the apartment door for § 87(2)(b) and wrote her statement on the DIR with PO Camerada in the kitchen. Both § 87(2)(b) and § 87(2)(b) grabbed PO Camerada's torso and waist and pulled him away from § 87(2)(b) for approximately one minute. At this point, PO Healy went over the radio requesting additional units' because the officers were outnumbered by civilians. PO Camerada did not recall seeing PO Healy place his forearm against § 87(2)(b) neck, grab § 87(2)(b) by his chest and push him into the wall or see him use any force against § 87(2)(b) that would have restricted his breathing. PO Camerada denied seeing PO Healy press his knee against § 87(2)(b) body to keep him pressed against the wall or ever hitting § 87(2)(b) chest and denied doing so himself. PO Camerada did not recall if he ever grabbed § 87(2)(b) by his chest and pulled him towards his body, if he ever made any physical contact with § 87(2)(b) chest, or if he ever used any physical force against § 87(2)(b).

The Threat, Resistance, and Injury Report ("TRI") (**Board Review 33-39**), completed by Captain Jeremy Kivlin of the 101<sup>st</sup> Precinct, was generally consistent with the BWC footage and the officers' statements.

§ 87(2)(b) arrest report (**Board Review 01**) notes that § 87(2)(b) interfered during an investigation into a domestic incident by grabbing PO Healy by the hand and stating, "I will hit you." § 87(2)(b) arrest report (**Board Review 02**) notes that § 87(2)(b) interfered during an investigation into a domestic dispute by placing himself between the officers and his mother.

NYPD Patrol Guide, Procedure 221-01 states that officers may use physical force if it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain compliance from a subject to reduce or eliminate the necessity to use force. In all circumstances, any application or use of force must be reasonable under the circumstances (**Board Review 41**).

PO Healy and PO Camerada consistently testified that in the minutes before § 87(2)(b) who appeared intoxicated, tried to walk past PO Healy to the bathroom, she and § 87(2)(b) were yelling at each other and § 87(2)(b) became increasingly angry, which is consistent with the BWC footage. Thus, the investigation credits PO Healy's assessment that both parties needed to be separated to avoid further escalation. Furthermore, the BWC footage shows that PO Healy informed § 87(2)(b) that he would move, allowing her to go to the bathroom, and that she pushed past him before he did so, at which point PO Healy grabbed her upper arm, as § 87(2)(b) initiated physical contact with PO Camerada. Though § 87(2)(b) denied making any physical contact with PO Healy, § 87(2)(b) acknowledged that both he and § 87(2)(b) grabbed PO Healy's hands to get them off § 87(2)(b) which is consistent with PO Healy's testimony. Additionally, the BWC footage shows that § 87(2)(b) pulled § 87(2)(b) away from PO Healy and towards the bathroom. Given that the officers were trying to keep § 87(2)(b) and § 87(2)(b) who appeared intoxicated, separate, § 87(2)(b) not listening to PO Healy's instructions to stay, and the physical contact the civilians were making with the officers, who were outnumbered in the confined space, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)



§ 87(2)(g) Though the BWC footage does not clearly capture what follows, as mentioned above, § 87(2)(b) testified that he and § 87(2)(b) were trying to physically remove PO Healy's hands from § 87(2)(b) which is consistent with PO Healy's testimony. Though § 87(2)(b) denied making any physical contact with PO Healy, the BWC footage captures him telling PO Healy, "Let go of her," referring to § 87(2)(b) "or I'm going to hit you," a clear verbal threat. As the civilians outnumbered the officers in the apartment, § 87(2)(b) acknowledged that he and § 87(2)(b) initiated physical contact with PO Healy, and § 87(2)(b) threat to inflict physical harm towards PO Healy, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Though § 87(2)(b) alleged that PO Healy pressed his forearm against his neck, the BWC footage is consistent with PO Healy's testimony that he briefly made contact with § 87(2)(b) chest area before turning him around and placing him in handcuffs. Moreover, while § 87(2)(b) alleged that PO Healy pressed his knee against § 87(2)(b) lower body to keep him against the wall prior to handcuffing him, the BWC footage confirms that PO Healy never did so. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

NYPD Patrol Guide, Procedure 200-02, states that officers must "render [their] services with courtesy and civility," and that they must, "maintain a higher standard of integrity than is generally expected of others" (**Board Review 42**). Disciplinary Court No. 2018-18951, states that officers have a responsibility to act with decorum in their interactions with civilians, though there are certain situations where profane remarks made during a stressful or chaotic situation do not constitute misconduct (**Board Review 43**).

PO Healy acknowledged saying, "Don't fucking touch me," because § 87(2)(b) was bending his fingers back and he wanted to inform him that he could not put his hands on officers. As noted above, the investigation credits that § 87(2)(b) was physically trying to remove PO Healy's hands from § 87(2)(b). Furthermore, while PO Healy did not recall telling § 87(2)(b) "You're not gonna do shit," in response to § 87(2)(b) telling him, "I'm gonna hit you," the BWC footage confirms that he did. However, given that § 87(2)(b) acknowledged that he and § 87(2)(b) made physical contact with PO Healy, that § 87(2)(b) threatened to hit PO Healy, that the civilians were not complying with the officers' instructions, and that the civilians outnumbered the officers in the confined space,

§ 87(2)(g)

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§ 87(2)(g)

**Allegation (A) Abuse of Authority: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy refused to provide his shield number to § 87(2)(b)**

**Allegation (B) Abuse of Authority: At § 87(2)(b) § 87(2)(b) in Queens, Police Officer Shaun Healy refused to provide his name to § 87(2)(b)**

Although § 87(2)(b) did not provide a statement and neither § 87(2)(b) nor § 87(2)(b) stated that they heard this, the BWC footage captures § 87(2)(b) asking PO Healy for his name and shield number. In PO Healy's BWC footage (**Board Review 04**), beginning at 05:08, as PO Healy leans on § 87(2)(b) door, completing the DIR, § 87(2)(b) asks PO Healy, "And what's your name? Let me take down your fucking badge number?" He replies, "You could do that" and continues filling out the DIR. At 5:20, § 87(2)(b) says, "Excuse me." PO Healy replies, "Back up. You can

take it from there. Back up. Thank you.” § 87(2)(b) then says, “Mhm,” and, “Because I’m going to sue your ass.” § 87(2)(b) does not ask for PO Healy’s name or shield number again. Due to the angle of the BWC, § 87(2)(b) is not captured.

Neither § 87(2)(b) nor § 87(2)(b) mentioned this aspect of the incident during their respective CCRB interviews. As mentioned above, § 87(2)(b) and § 87(2)(b) were uncooperative during the investigation.

PO Healy’s statement was generally consistent with the BWC footage. He testified that § 87(2)(b) asked him for his name and shield number and PO Healy said he would provide it to her in a minute. § 87(2)(b) then took a photograph of PO Healy’s nameplate on her cellphone. He never verbally provided his information to § 87(2)(b) because he felt that the photograph she took sufficed, and § 87(2)(b) never specifically asked him to provide his information verbally.

NYPD Administrative Guide, Procedure 304-11 (Board Review 40), states that officers must courteously and clearly state their rank, name, shield number, and command, or otherwise provide them, to any who requests they do so.

Though the BWC footage does not capture what § 87(2)(b) was doing as she requests PO Healy’s information, it does capture PO Healy telling § 87(2)(b) that she could, “Take it from there,” referring to his name and shield number, and § 87(2)(b) verbally acknowledging his request, as she says, “Mhm.” Furthermore, the BWC footage confirms that § 87(2)(b) did not subsequently ask for PO Healy’s name or shield number again, indicating that she was satisfied. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (L) Abuse of Authority: At § 87(2)(b) in Queens, officers threatened § 87(2)(b) with the use of force.**

**Allegation (M) Force: At § 87(2)(b) in Queens, an officer used a chokehold against § 87(2)(b)**

**Allegation (N) Force: At § 87(2)(b) in Queens, an officer restricted § 87(2)(b) breathing.**

**Allegation (O) Force: At § 87(2)(b) in Queens, Lieutenant Cortney Cummings used physical force against § 87(2)(b)**

**Allegation (P) Force: At § 87(2)(b) in Queens, Lieutenant Cortney Cummings used physical force against § 87(2)(b)**

**Allegation (Q) Discourtesy: At § 87(2)(b) in Queens, Lieutenant Cortney Cummings spoke discourteously to § 87(2)(b)**

**Allegation (R) Discourtesy: At § 87(2)(b) in Queens, officers spoke discourteously to § 87(2)(b)**

**Allegation (S) Force: At § 87(2)(b) in Queens, Police Officer Terrence Sloan used physical force against § 87(2)(b)**

§ 87(2)(b) testified that in the hallway, he saw approximately 20 to 30 officers, some of whom had “Detective” written on their vests and others who were dressed in regular NYPD uniforms. § 87(2)(b) phone rang, and he grabbed it from the front right pocket of his jacket and answered the call, which was from his boss. An officer who § 87(2)(b) did not see yelled, “You can’t have that!” An officer, who § 87(2)(b) could not see, grabbed his neck and “slammed” him into the wall in the corner of the elevator. This restricted § 87(2)(b) breathing for approximately 30 seconds as the officer maintained their grip around his neck. § 87(2)(b) had not been issued any verbal commands or instructions prior to him answering his phone. At no point prior to this had any officer patted § 87(2)(b)

§ 87(2)(b) down or checked any of his pockets. § 87(2)(b) had his ID and Medicaid card in his right front pants pocket, his insurance card and Chapstick in his left front pants pocket, and his vaccination card in one of his back pants pockets. Once in the elevator, officers punched § 87(2)(b) in his back, side, face, stomach, and chest, but could not describe the officers because there were so many. He specifically recalled that Lieutenant Cummings, identified via the investigation, first slapped his right cheek, then punched him twice on the left side of his face by his eye, which caused § 87(2)(b) face to swell slightly. Officers he could not see grabbed § 87(2)(b) wrists, where his handcuffs were, and held his arms upwards, which caused § 87(2)(b) pain. The officers stopped hitting him when the elevator got to the first or second floor. § 87(2)(b) was later transported to § 87(2)(b) in Far Rockaway by officers after requesting medical attention. He was diagnosed with abrasions to his wrists and swelling to his neck and spine. Upon his release from Central Booking, § 87(2)(b) went back to the hospital to ask for X-Rays, but he was informed by medical staff that they did not see significant damage and that his swelling would subside in a month.

§ 87(2)(b) medical records (**Board Review 44**) from § 87(2)(b) revealed that he was diagnosed with a bilateral wrist strain and a neck strain. § 87(2)(b) had no acute traumatic injury seen on imaging and was stable for discharge. Medical records received regarding § 87(2)(b) visit after he was released from Central Booking (**Board Review 45**), revealed that he was diagnosed with pain in his left and right wrist. § 87(2)(b) had no gross deformity, tenderness or swelling to his wrists. § 87(2)(b) complained that he had hand pain after being incarcerated and had pins and needles from handcuffs.

In an unverified phone statement, obtained by the CCRB on November 18, 2021, § 87(2)(b) said that while in the elevator officers said, “Break his arms.” In his CCRB interview on December 10, 2021, § 87(2)(b) did not mention this. In his complaint with IAB, § 87(2)(b) alleged that officers used excessive force against him, but did not specify how so nor which officers did so.

In PO Sheridan’s BWC footage (**Board Review 10**), at 01:00, PO Sheridan arrives on the fourth floor of § 87(2)(b) where § 87(2)(b) who is handcuffed, stands with various uniformed officers around him. At 00:58, § 87(2)(b) reaches his right hand into his front right coat pocket and takes out his cellphone. § 87(2)(b) tells officers to not touch his phone. An officer [off camera] orders § 87(2)(b) to put his phone in his pocket. § 87(2)(b) phone remains in his right hand, and behind his back. At 01:32, Lieutenant Cummings exits the elevator and holds the doors open. § 87(2)(b) and Police Officer Steven Lopez, of the 101<sup>st</sup> Precinct, who holds § 87(2)(b) left arm, enter the elevator. PO Sheridan follows behind. § 87(2)(b) who still has his phone in his hand says, “I’m calling my lawyer, while I’m being detained.” At 01:39, § 87(2)(b) who holds his phone at his right side, says “Don’t touch my phone. Do not touch my phone.” At 01:40, Lieutenant Cummings, who is in the elevator reaches towards § 87(2)(b) right side, and appears to say, “Shut up.”

In PO Lopez’s BWC footage (**Board Review 05**) at 01:38, § 87(2)(b) phone is visible. It is a black iPhone, which has a clear case with a slight yellow tint on it. The case has ridges on its sides.

What follows is more clearly captured on PO Post’s BWC footage (**Board Review 07**), where at the 02:43, Lieutenant Cummings extends her right arm forward and pushes § 87(2)(b) face towards the elevator wall, with her right hand, as PO Post enters the elevator. At 02:47, § 87(2)(b) says, “Go ahead assault me,” and Lieutenant Cummings says, “Get the fucking phone. We don’t need anyone grabbing nothing.” § 87(2)(b) says, “Nah, I ain’t giving no phone.” At 02:50, officers order § 87(2)(b) to get his hands out of his, “Fucking pockets” and to show them his, “Fucking hands.” At 02:55, § 87(2)(b) hands are visible behind his back, gripping his phone. He tells the officers that his hands are not in his pockets. At 03:00, PO Post’s BWC is obscured, as it faces an officer’s torso. At

03:01, § 87(2)(b) says, “Go ahead keep hitting me,” as an officer says, “I got the phone.” At 03:05, Lieutenant Cummings tells the officers to get § 87(2)(b) hands. Due to the angle of the BWC, § 87(2)(b) hands are no longer visible on the screen. At 03:20, PO Sheridan searches § 87(2)(b) pockets. § 87(2)(b) yells, “Excessive force,” and says he is going to sue the officers. At 04:12, the officers escort § 87(2)(b) out of the elevator.

In NYCHA surveillance footage (**Board Review 19**), which captures the interior of the elevator, at 15:56, § 87(2)(b) who is rear handcuffed, walks into the elevator, as PO Lopez holds his right arm. § 87(2)(b) is holding a cellphone in his right hand. PO Sheridan enters the elevator and holds § 87(2)(b) left arm. At 16:02, Lieutenant Cummings enters the elevator. At 16:04, Police Officer Shawn Post, of the 101<sup>st</sup> Precinct, enters the elevator, as Lieutenant Cummings, with her right hand, pushes § 87(2)(b) face into the front wall of the elevator and does so until 16:20. During this time an unidentified officer and Police Officer Phillip Jendzo, of the 101<sup>st</sup> Precinct, enter the elevator. At 16:22, Lieutenant Cummings punches § 87(2)(b) twice in back of his head. At 16:26, the elevator doors close and immediately reopen. At 16:28, PO Sloan enters the elevator and lifts § 87(2)(b) arms up behind him and towards the top of the elevator, as Lieutenant Cummings exits the elevator. § 87(2)(b) face and chest are pressed against the back corner of the elevator and his arms remain positioned above his body until 17:28. At 17:33, the elevator reaches the first floor and officers escort § 87(2)(b) out of the elevator.

The TRI Report (**Board Review 33**), completed by Captain Kivlin of the 101<sup>st</sup> Precinct, was somewhat consistent with the BWC footage. It notes that after being placed in the elevator, § 87(2)(b) became highly combative and reached for an unknown object in his back pocket which was later determined to be a cellphone. § 87(2)(b) then shoved his hands down his pockets and refused to remove them. Lieutenant Cummings utilized a hand strike to § 87(2)(b) head to gain compliance due to the belief that he might be attempting to retrieve a possible weapon. In Lieutenant Cummings’ TRI Report, Lieutenant Cummings noted that she used a hand strike and wrestled/grappled with § 87(2)(b) to overcome resistance or aggression, in defense of other MOS, and in defense of self.

The Line of Duty Incident Report (**Board Review 47**), completed by Lieutenant Cummings, notes that she dislocated her right hand from punching § 87(2)(b). Her statement was that she witnessed officers struggling to control an actively resisting perpetrator, who was violently twisting, lunging, and pushing off officers, and possessed an unknown object, which he refused to drop, and was reaching for his waist area. She said she delivered a hand strike to § 87(2)(b) which caused injury to her right hand.

Lieutenant Cummings’ statement was somewhat consistent with the video evidence (**Board Review 48**). She testified that upon her arrival on scene, she observed § 87(2)(b) in handcuffs, though she did not know what he had been arrested for, and PO Sheridan and PO Lopez, identified via investigation, escorting him into an elevator. Lieutenant Cummings was not made aware of any frisks or searches having been conducted before she arrived on scene. As the officers escorted § 87(2)(b) into the elevator, Lieutenant Cummings observed, in her peripheral vision, that § 87(2)(b) was gripping a dark colored, square object, which looked like the butt of a gun, in his hand. Prior to making this observation, no officers mentioned this object nor any weapon to Lieutenant Cummings. She did not recall hearing anything about a cellphone during the incident nor hearing § 87(2)(b) tell officers not to touch his phone. She entered the elevator believing that the object was a weapon and not wanting the officers to get shot. The officers tried to get the object away from § 87(2)(b) but he refused to drop it and actively and violently resisted. Lieutenant Cummings issued § 87(2)(b) verbal commands to give the officers his hands and drop what he had. § 87(2)(b) hands were behind his back, around his waistband, and he was reaching around and fumbling with something.

§ 87(2)(b) was flailing his body, folding, stiffening, lunging, lurching, jerking, pulling away, and using his head to whip around the entire time that Lieutenant Cummings was in the elevator, aside from the times that that she had § 87(2)(b) head restrained. § 87(2)(b) whipped his head towards Lieutenant Cummings' face, so she used her hand to control his head against the wall of the elevator, placing her hand at the side of his head for a few seconds, while the officers attempted to disarm him. She did so to stop § 87(2)(b) head from whipping around and to prevent him from headbutting anyone, which could have resulted in serious physical injury, if not death, to himself and the officers. § 87(2)(b) moved his head out of Lieutenant Cummings' hand, and she assumed that he was trying to headbutt, since he was whipping his head around and for no other reason. Lieutenant Cummings attempted, though she was not sure if she was successful, to deliver one hand strike using a closed fist to overcome § 87(2)(b) head from causing injury to herself or the other officers. The hand strike was the minimal amount of force necessary to stop § 87(2)(b) active resistance, to stop him from assaulting her or the other officers, and to gain his compliance. Lieutenant Cummings denied ever seeing an officer grab § 87(2)(b) by his neck and slam him into the elevator or doing so herself. § 87(2)(b) never complained of having trouble breathing nor did he ever appear to have trouble breathing. She denied ever taking any action that restricted § 87(2)(b) breathing nor seeing any officer do so. When asked if she ever punched § 87(2)(b) on the left side of his eye or on the back of his head, Lieutenant Cummings said that she attempted to deliver a hand strike and it was possible it may have landed there. Lieutenant Cummings denied ever hearing any officers say, "Break his arms." She said that it was possible that she said, "Take your hands out of your fucking pockets," because she was trying to deliver verbal commands to gain compliance as to not have anything escalate to the form of physicality and it was a high stress situation. When asked if she ever communicated to other officers that § 87(2)(b) may have had a weapon, Lieutenant Cummings said she said, "Hands, hands. He's got something in his hands. What's in his hands?" Lieutenant Cummings dislocated her pinky finger, which she attributed to § 87(2)(b) violent resistance. No other civilians were around when § 87(2)(b) was in the elevator. § 87(2)(b) was much larger than Lieutenant Cummings and decent sized officers were trying to hold him and were unable to. Lieutenant Cummings did not have any knowledge of any violent behavior § 87(2)(b) had exhibited towards officers prior to this incident. When presented with PO Sheridan's BWC footage (**Board Review 10**), Lieutenant Cummings said at the moment when § 87(2)(b) was telling officers that he had a phone, she did not know that it was a phone. She said that it sounded like § 87(2)(b) was having a personal conversation with the officer, and not her. In Lieutenant Cummings' professional experience, objects are not always what someone claims they are, as she gets intelligence alerts weekly about cellphone tasers and cellphone guns. In the portion of footage, Lieutenant Cummings did not hear herself say anything about a phone. When played again, Lieutenant Cummings could not tell if she was saying anything about a phone. When presented with NYCHA footage (**Board Review 19**), Lieutenant Cummings said that the footage was consistent with what she described of § 87(2)(b) whipping his head around and after the CCRB played the footage two more times, she said that she only saw herself deliver one hand strike.

PO Sloan's statement was generally consistent with the video evidence (**Board Review 49**). He testified that upon his arrival, he observed officers escorting § 87(2)(b) who was holding a cellphone, into the elevator, where a physical struggle ensued. § 87(2)(b) who was handcuffed, was twisting his body, contorting, reaching, and using his own body weight against the officers that were restraining him. § 87(2)(b) was approximately 5'9" tall and 150 pounds. With his size, § 87(2)(b) was able to move the officers in the elevator. § 87(2)(b) resisted every verbal order and attempt to restrain him. From the outset of PO Sloan arriving on scene until § 87(2)(b) was restrained by PO Sloan in the elevator, § 87(2)(b) was reaching into his pockets. PO Sloan never saw an officer grab § 87(2)(b) by his neck and slam him into a wall in the corner of the elevator or seeing any officer make any physical contact with § 87(2)(b) neck. He never heard officers say, "Break his arms," and denied ever saying so himself. PO Sloan gained control of § 87(2)(b) hands, holding the metal link between § 87(2)(b)

handcuffs, and raised them behind his back, at mid shoulder length, where § 87(2)(b) could no longer reach, eliminating the threat of § 87(2)(b) reaching until the officers were able to control and search him. As PO Sloan held § 87(2)(b) handcuffs, § 87(2)(b) stopped resisting. § 87(2)(b) never complained of having trouble breathing and never appeared to have trouble breathing. Before PO Sloan restrained § 87(2)(b), § 87(2)(b) had been reaching for either pocket. § 87(2)(b) did not have his cellphone in his hands when PO Sloan restrained him.

While § 87(2)(b) alleged that officers said, “Break his arms,” the BWC footage confirms that no officer ever made that statement to § 87(2)(b). § 87(2)(g) Though § 87(2)(b) alleged that an officer grabbed him by his neck and slammed him into the corner of the elevator, the video evidence shows that no officer makes any physical contact with § 87(2)(b) neck while he was in the elevator. § 87(2)(g)

NYPD Patrol Guide, Procedure 221-01 states that officers may use physical force if it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain compliance from a subject to reduce or eliminate the necessity to use force. In all circumstances, any application or use of force must be reasonable under the circumstances (**Board Review 41**). In evaluating whether force is reasonable, the Patrol Guide instructs officers to consider: a. “The nature and severity of the crime/circumstances; b. Actions taken by the subject; c. Duration of the action; d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders; e. Whether the subject is actively resisting custody; f. Whether the subject is attempting to evade an arrest by flight; g. Number of subjects in comparison to the number of MOS; h. Size, age, and condition of the subject in comparison to the MOS; i. Subject’s violent history, if known; j. Presence of hostile crowd or agitators; k. Subject apparently under the influence of a stimulant/narcotic which; would affect pain tolerance or increase the likelihood of violence.” Officers are prohibited from, “using any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical resistance or assault.”

The video evidence captures § 87(2)(b) who is handcuffed, holding his cellphone as he enters the elevator, refusing to give it to the officers and telling them not to touch his phone. Without issuing any verbal orders, Lieutenant Cummings tells § 87(2)(b) to, “Shut up,” and then pushes his head against the elevator wall, as multiple officers surround him. Though Lieutenant Cummings said she did not hear herself saying anything about a phone when presented with the BWC footage, the investigation determined that the footage captures a female voice saying, “Shut up,” and, “Get the fucking phone. We don’t need anyone grabbing nothing.” As Lieutenant Cummings was the only female officer present in the elevator, the investigation determined that she made the statements. Given the above, despite Lieutenant Cummings’ contention that she believed § 87(2)(b) was holding a firearm, the investigation determined, by a preponderance of the evidence, that she was aware that the object in § 87(2)(b) hand was not a firearm. However, even if the investigation credits that she believed § 87(2)(b) was holding a firearm, her failure to inform other officers of her observation and her immediate use of force towards § 87(2)(b) who was handcuffed, without issuing any verbal orders prior, while multiple officers surrounded him, was egregious and increased the likelihood of further physical resistance, thereby jeopardizing both civilian and officer safety. Furthermore, shoving § 87(2)(b) face and punching his head would not have eliminated the threat of § 87(2)(b) reaching for a firearm. Though Lieutenant Cummings said that § 87(2)(b) was whipping his head towards her face, which prompted her to physically control his head with her hand, the video evidence disputes this, showing that § 87(2)(b) who was handcuffed, surrounded and held by two



other officers, had not been whipping his head towards any of the officers. The video evidence shows that once Lieutenant Cummings pushes § 87(2)(b) head into the elevator wall, he begins to move his head away from her hand. Despite Lieutenant Cummings' assertion that § 87(2)(b) movements suggested that he was attempting to headbutt officers, the investigation determined that § 87(2)(b) movements were more consistent with § 87(2)(b) speaking to the officers and attempting to move his face away from her hand, which was covering his face. Moreover, given that they were in a confined space, § 87(2)(b) was handcuffed, and officers were holding § 87(2)(b) arms, § 87(2)(b) range of motion with his head was limited. Rather than deescalate the situation, Lieutenant Cummings further antagonized the situation, as she punched § 87(2)(b) in the back of the head, all while five officers, including herself, surrounded him in the elevator. Though Lieutenant Cummings said she did so again to prevent § 87(2)(b) from headbutting any officers, the video evidence does not show § 87(2)(b) moving his head nor body in a manner which suggests that he would do so. Given that § 87(2)(b) refused to give the officers his cellphone, as is undisputed in both testimony and video footage, the investigation determined that some degree of physical force was necessary to remove the cellphone from § 87(2)(b) hands. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

As discussed above, the investigation determined that some degree of force was necessary to remove the cellphone from § 87(2)(b) hands, and PO Sloan testified that he gained control of § 87(2)(b) hands and raised them behind his back to eliminate the threat of § 87(2)(b) reaching until the officers were able to control and search him. The video evidence shows that PO Sloan raised § 87(2)(b) arms behind his back for approximately one minute, as the elevator descended to the first floor, and that once it reached the first floor, he lowered them. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

NYPD Patrol Guide, Procedure 200-02, states that officers must “render [their] services with courtesy and civility,” and that they must, “maintain a higher standard of integrity than is generally expected of others” (**Board Review 42**). Under DAO-DCT Case Number 2015-15012, discourteous language may be excusable when an officer is speaking in the context of a dynamic situation over which he is still attempting to gain control (**Board Review 50**).

The BWC footage captures officers, including Lieutenant Cummings, issuing § 87(2)(b) verbal orders to get his hands out of his, “fucking pockets,” and to show them his, “fucking hands.” Lieutenant Cummings testified that she did so in hopes that § 87(2)(b) would comply with her commands and that the situation was stressful. The video evidence does not clearly capture whether § 87(2)(b) ever reached his hands into his pockets, especially as the officers' BWCs' are obscured periodically due to their proximity to one another and § 87(2)(b) in the elevator. However, the BWC footage confirms that § 87(2)(b) was verbally and physically refusing to give the officers his cellphone to the point where officers used force. § 87(2)(g)

§ 87(2)(b)



**Allegation (T) Force: At § 87(2)(b) in Queens, Police Officer Terrence Sloan used physical force against § 87(2)(b)**

**Allegation (U) Force: At § 87(2)(b) in Queens, Sergeant Harrison Berkowitz used physical force against § 87(2)(b)**

**Allegation (V) Abuse of Authority: At § 87(2)(b) in Queens, Sergeant Harrison Berkowitz threatened § 87(2)(b) with the use of force.**

**Allegation (W) Discourtesy: At § 87(2)(b) in Queens, Sergeant Harrison Berkowitz spoke discourteously to § 87(2)(b)**

**Allegation (X) Force: At § 87(2)(b) in Queens, Police Officer Terrence Sloan used physical force against § 87(2)(b)**

**Allegation (Y) Force: At § 87(2)(b) in Queens, Police Officer Thomas Sheridan used physical force against § 87(2)(b)**

§ 87(2)(b) testified that once the elevator doors opened, without giving § 87(2)(b) any orders or the opportunity to walk on his own, and without § 87(2)(b) refusing to walk, approximately 20 officers carried him out of the building and to a marked SUV by pulling on his handcuffs as his arms were pointed upward, which put strain on his wrists. § 87(2)(b) feet were off the ground at this time. By the police vehicle, officers ordered § 87(2)(b) to get inside. Sgt. Berkowitz, identified via the investigation, said, "If you don't get into the vehicle, I'm going to break your legs." § 87(2)(b) told Sgt. Berkowitz to do what he had to do. Sgt. Berkowitz told officers to grab § 87(2)(b) and put him in the car, and officers, who § 87(2)(b) could not see, then grabbed § 87(2)(b) by the handcuffs on his wrists and pulled him into the car. § 87(2)(b) was then transported to the 101<sup>st</sup> Precinct stationhouse.

In his complaint with IAB, § 87(2)(b) alleged that officers used excessive force against him, but did not specify how nor which officers did so.

In PO Post's BWC footage (**Board Review 07**), at 04:12, § 87(2)(b) exits the elevator with various officers. At 04:20, Deputy Inspector Robinson orders the officers, who stand around § 87(2)(b) to, "toss him." The officers frisk § 87(2)(b) and search his pockets, as he screams, "You're breaking my wrist." PO Jendzo hooks his left arm under § 87(2)(b) left shoulder, as § 87(2)(b) jumps up and down and screams that the officers are breaking his wrists. At 04:49, PO Sloan, PO Jendzo, and Sgt. Berkowitz make contact with various parts of § 87(2)(b) arms, as they walk with § 87(2)(b) facing them, and walking reluctantly on his own, out of the building and down the front entranceway. Officers are repeatedly telling § 87(2)(b) to walk.

What follows is more clearly captured in NYCHA footage (**Board Review 20**), which captures the front entranceway of § 87(2)(b) where at 18:25, Sgt. Berkowitz, who stands on § 87(2)(b) left, holds his upper left right arm, as § 87(2)(b) faces towards the building, and PO Sloan, who stands on § 87(2)(b) right, holds his upper left arm. The officers walk forwards as § 87(2)(b) walks backwards.

In PO Lopez's BWC footage (**Board Review 05**), beginning at 05:35, Det. Sloan, Sgt. Berkowitz, and Det. Hannon, search § 87(2)(b) pockets, as he wails and screams. Deputy Inspector Robinson orders § 87(2)(b) to stop. At 05:49, § 87(2)(b) asks why the officers are trying to break his wrists. Deputy Inspector Robinson says his handcuffs are new and will "break right in." At 05:55, § 87(2)(b) gets into the back of the police car. At 05:55, Sgt. Berkowitz, who holds the police car door, says, "Move your fucking leg, or I'm going to break that too," as PO Sloan reaches towards § 87(2)(b) legs. This statement is also captured in PO Sheridan's BWC footage (**Board Review 10**) at 05:17.

What follows is more clearly captured on Police Officer Kathleen Meyer's BWC footage (**Board Review 13**), where at 03:53, PO Sloan lifts § 87(2)(b) legs into the car. At 04:04, PO Sloan closes the door.

What follows is more clearly captured on Police Officer Marcus Fuller's BWC footage (**Board Review 12**), where at 04:02, Deputy Inspector Robinson orders the officers to, "pull § 87(2)(b) back." At 04:04, PO Sheridan grabs § 87(2)(b) arms and pulls him into the backseat. At 04:07, an officer closes the door.

Sgt. Berkowitz's statement was somewhat consistent with the BWC footage (**Board Review 51**). He testified that as the elevator doors opened, he hooked his arm underneath one of § 87(2)(b) arms and escorted him out of the building, down a walkway, and to a police car, as § 87(2)(b) feet remained on the ground. Sgt. Berkowitz denied ever carrying § 87(2)(b) out of the building by pulling on his handcuffs. § 87(2)(b) did not willingly get into the police car, as he kept kicking his legs out from underneath him. Sgt. Berkowitz's turned § 87(2)(b) on his side and placed him into the car sideways by holding onto his arms. § 87(2)(b) flailed his whole body and his legs the whole time that Sgt. Berkowitz interacted with him. As § 87(2)(b) was being placed into the car, Sgt. Berkowitz did not remember if there were any civilians around. Sgt. Berkowitz did not specifically hear § 87(2)(b) say anything that indicated that he might have been trying to escape custody, but there is always the fear that a perpetrator might. Sgt. Berkowitz did not remember saying anything to § 87(2)(b) as he was placed in the car and did not recall if any part of § 87(2)(b) body had been preventing the officers from closing the car door. Sgt. Berkowitz denied telling § 87(2)(b) "If you don't get into this vehicle, I'm going to break your legs" and did not recall saying, "Move your fucking leg, or I'm going to break that too. Sgt. Berkowitz said that the whole situation was stressful and chaotic, in that § 87(2)(b) was an actively resisting perpetrator, who persisted in his resistance as he tried to get him inside the car. When presented with PO Lopez's BWC footage (**Board Review 05**), Sgt. Berkowitz identified himself as the officer captured and acknowledged saying something but said he could not hear what he said. When played again, Sgt. Berkowitz said he did not know what he said, as it sounded unintelligible to him. When told that it was alleged that he said, "Move your fucking leg, or I'll break that too," Sgt. Berkowitz said that was not something he would say. When played two more times, Sgt. Berkowitz said he heard himself saying something, but could not make out any of the words he said. When asked if the footage ever refreshed Sgt. Berkowitz's recollection on whether he ever threatened to break § 87(2)(b) leg, he said he did not remember doing so. Sgt. Berkowitz never intended to break any part of § 87(2)(b) body.

PO Sloan's statement was generally consistent with the video evidence and Sgt. Berkowitz's testimony. He testified that when escorting § 87(2)(b) out of the building, he was on the right side of his arm, grabbing his bicep with his right hand. § 87(2)(b) twisted his body as they began walking towards the car and went back and forth between dropping weight to walking on his own. § 87(2)(b) was not threatening the officers, instead he was saying that what was happening was not fair and that he was going to sue the officers. His resistance did not have much of an impact on the officers. The only time that § 87(2)(b) was lifted off the ground was when they sat § 87(2)(b) down in the car. § 87(2)(b) arched his back, pushed back, and stood up when asked to sit down, but eventually § 87(2)(b) complied with sitting in the car. § 87(2)(b) sat at the edge of the seat and leaned his body back, refusing to get inside the car any further, at which point PO Sloan pushed § 87(2)(b) leg into the car because he would not go in. He did not make any other physical contact with § 87(2)(b) at the car and did not observe any other officers do so. He was the only officer who put § 87(2)(b) in the car. PO Sloan never heard any officer say, "If you don't get into this vehicle, I am going to break your legs," or "Move your fucking leg or I am going to break that too."

The investigation was able to make a determination based on the available evidence without

interviewing PO Sheridan.

Though § 87(2)(b) alleged that approximately 20 officers carried him out of the building by some of them pulling on his handcuffs as his arms were pointed upward with his feet off the ground, the video evidence captures PO Sloan and Sgt. Berkowitz holding onto § 87(2)(b) arms, not pulling on his handcuffs, as he reluctantly walked on his own. § 87(2)(g)

NYPD Patrol Guide, Procedure 221-01 states that officers may use physical force if it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain compliance from a subject to reduce or eliminate the necessity to use force. In all circumstances, any application or use of force must be reasonable under the circumstances (**Board Review 41**).

It is undisputed that officers used force to get § 87(2)(b) inside the police car. The BWC footage shows § 87(2)(b) yelling, though no officers appear to be making physical contact with him beyond searching him before he is placed in the police car. The officers repeatedly order § 87(2)(b) to stop yelling and to relax, but his yelling persists, at which point PO Sloan lifts his legs into the police car and PO Sheridan pulls § 87(2)(b) into the seat. § 87(2)(g)

NYPD Patrol Guide, Procedure 221-01 states that officers may use physical force if it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain compliance from a subject to reduce or eliminate the necessity to use force. In all circumstances, any application or use of force must be reasonable under the circumstances (**Board Review 41**). Officers are prohibited from, “using any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical hesitation or assault.”

NYPD Patrol Guide, Procedure 200-02, states that officers must “render [their] services with courtesy and civility,” and that they must, “maintain a higher standard of integrity than is generally expected of others” (**Board Review 42**). Under DAO-DCT Case Number 2015-15012, discourteous language may be excusable when an officer is speaking in the context of a dynamic situation over which he is still attempting to gain control (**Board Review 50**).

Though Sgt. Berkowitz asserted that he could not hear what his exact words were, he acknowledged that he was the officer captured in the footage speaking at the point it is alleged that he threatened to break § 87(2)(b) leg. Based on the BWC footage, the investigation determined by a preponderance of the evidence that Sgt. Berkowitz told § 87(2)(b) “Move your fucking leg or I’ll break that too” without issuing § 87(2)(b) any verbal orders to get inside the police car. The BWC confirms that while § 87(2)(b) who was handcuffed, entered the back of the police car, there was no hostile crowd or agitators, and that there were over ten officers standing at or around the police car, which supports that no immediacy or any perceived threat or harm to anyone existed. Though Sgt. Berkowitz testified that § 87(2)(b) was resisting and there was a potential for him to escape, he did

not articulate any specific factors that led him to believe this during this incident. Although Sgt. Berkowitz did not recall telling § 87(2)(b) that he would break his legs, § 87(2)(g)

**Allegation (Z) Discourtesy: At the 101st Precinct Stationhouse, Deputy Inspector Eric Robinson spoke discourteously to § 87(2)(b)**

§ 87(2)(b) testified that he was brought inside the stationhouse and in front of the main desk, where officers, including Deputy Inspector Robinson, identified via the investigation, ordered him to calm down. § 87(2)(b) asked Deputy Inspector Robinson what he was being arrested for and he said § 87(2)(b) assaulted an officer. § 87(2)(b) told Deputy Inspector Robinson that he was going to press charges against him. Deputy Inspector Robinson told § 87(2)(b) that if his officers arrested him, then he committed an arrestable offense, and he told § 87(2)(b) “Shut the fuck up.” Deputy Inspector Robinson told officers to check § 87(2)(b) pockets and place him in the holding cell. § 87(2)(b) was lodged in a holding cell and requested medical attention. He was transported to § 87(2)(b) in Far Rockaway.

In PO Osario’s BWC footage (**Board Review 18**), which captures § 87(2)(b) conversation with Deputy Inspector Robinson, at 00:30, PO Osario searches § 87(2)(b) pockets and then walks him to the front desk, where officers search him further. At 03:47, Deputy Inspector Robinson enters the stationhouse, and § 87(2)(b) asks to speak to him. § 87(2)(b) informs Deputy Inspector Robinson that he is going to sue him and the officers. Officers frisk § 87(2)(b) and he tells them to stop, “aggressing him.” At 05:17, Deputy Inspector Robinson tells § 87(2)(b) that the officers are going to frisk him and place him in a cell. At 06:46, § 87(2)(b) is placed in the holding cell. At no point do any officers tell § 87(2)(b) to, “Shut the fuck up.”

The investigation was able to make a determination based on the available evidence without interviewing Deputy Inspector Robinson.

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party.
- PO Healy has been a member of service for 11 years and has been a subject in nine CCRB complaints and 18 allegations, of which five were substantiated. Three discourteous words and one offensive language allegation have been pleaded and substantiated against PO Healy.
  - Case #201608480 involved substantiated allegations of physical force and a discourteous word. The Board recommended Formalized Training and the NYPD imposed Instructions.
  - Case #202005679 involved substantiated allegations of discourteous words and offensive language. The Board recommended Charges and the NYPD has not yet imposed discipline.



§ 87(2)(g)

- PO Camerada has been a member of service for 11 years and has been a subject in two CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- Lieutenant Cummings has been a member of service for 21 years and has been a subject in four CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- PO Sloan has been a member of service for 11 years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Sgt. Berkowitz has been a member of service for 16 years and has been a subject in nine CCRB complaints and 15 allegations, none of which were substantiated. § 87(2)(g)
- PO Sheridan has been a member of service for nine years and has been a subject in three CCRB complaints and five allegations, of which one was substantiated.
  - Case #201700425 involved a substantiated allegation of a question. The Board recommended Formalized Training, which the NYPD imposed. § 87(2)(g)
- Deputy Inspector Robinson has been a member of service for 18 years and has been a subject in four CCRB complaints and eight allegations, of which four were substantiated.
  - Case #200412910 involved a substantiated allegation of a refusal to provide name/shield number and an allegation of a retaliatory arrest. The Board recommended Charges and the NYPD imposed instructions.
  - Case #200610087 involved a substantiated allegation of and entry and/or search of premises. The Board Recommended Charges and the NYPD imposed Command Discipline B.
  - Case #201306122 involved a substantiated allegation of a stop. The Board recommended Charges and the NYPD imposed a forfeiture of three vacation days. § 87(2)(g)

#### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of January 19, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (**Board Review 55**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 16

Investigator: Ariana Thomas Inv. Ariana Thomas 01/24/2023  
Signature Print Title & Name Date

Squad Leader: Patrick Yu IM Patrick Yu 01/25/2023  
Signature Print Title & Name Date

Reviewer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title & Name

\_\_\_\_\_  
Date